



**LIMITED SCOPE MARKET CONDUCT EXAMINATION REPORT  
AS OF DECEMBER 31, 2008**

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**PERMANENT GENERAL ASSURANCE CORPORATION**

**3626 Elm Hill Pike  
Nashville, TN 37214**

**NAIC #37648  
NAIC Group Code #3638**



**CONDUCTED BY:**

**COLORADO DIVISION OF INSURANCE**

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**PERMANENT GENERAL ASSURANCE CORPORATION**  
**3626 Elm Hill Pike**  
**Nashville, TN 37214**

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**EXAMINATION REPORT**  
**as of**  
**December 31, 2008**

**Prepared by**

**State Market Conduct Examiner**

**Jeffory A. Olson, CIE, FLMI, AIRC, ALHC**

**And**

**Mari A. Sanchez, AIE, FLMI, AIRC, CCP, MCM**

**Independent Contract Examiner**

June 9, 2009

The Honorable Marcy Morrison  
Commissioner of Insurance  
State of Colorado  
1560 Broadway Suite 850  
Denver, Colorado 80202

Commissioner Morrison:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., a limited scope market conduct examination of the private passenger automobile business of Permanent General Assurance Corporation has been conducted.

The examination was conducted at the Company's office located at 5005 S. 40<sup>th</sup> Street, Phoenix, AZ, 85040. The examination was limited to a review of underwriting files involving private passenger automobile policies that had been cancelled, and a review of private passenger automobile claims involving total losses.

The examination covered the period from January 1, 2008 to December 31, 2008.

A report of the examination of Permanent General Assurance Corporation is, herewith, respectfully submitted.

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Jeffory A. Olson, CIE, FLMI, AIRC, ALHC

State Market Conduct Examiner

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Mari A. Sanchez, AIE, FLMI, AIRC, CCP, MCM

Independent Market Conduct Examiner

**MARKET CONDUCT  
EXAMINATION REPORT  
OF  
PERMANENT GENERAL ASSURANCE CORPORATION**

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**COMPANY PROFILE**

Permanent General Assurance Corporation ("PGAC") was formerly known as Nordic Union Reinsurance Corporation ("Nordic"). Nordic was originally a Delaware corporation and was a subsidiary of Constitution Reinsurance Corporation. On September 28, 1994, Nordic was redomesticated in Tennessee. On September 30, 1994, Permanent General Companies, Inc. ("PGC") acquired Nordic. All business written in Nordic prior to the sale was ceded at that time to its former parent. At the time of purchase PGC owned Permanent General Assurance Corporation ("Old PGAC"). Under an acquisition and merger agreement, Old PGAC was merged with and into Nordic, and Nordic's name was changed to PGAC. PGAC is a wholly owned subsidiary of PGC, which was acquired by Ingram Industries, Inc. on June 30, 1989.

PGC and its subsidiaries, including PGAC, were acquired by Capital Z Financial Services Fund II, L. P. and Capital Z Financial Services Private Fund II, L. P., Bermuda limited partnerships, and Capital Z Partners, Ltd., a Bermuda corporation, by and through PGC Holdings Corp., a Delaware corporation from Ingram Industries Inc. on December 2, 2004.

\*As of December 31, 2007, the Colorado direct premium written for combined private passenger automobile was \$8,115,000, which represents a .30% share of the market.

\*Data as reported in the 2007 Colorado Insurance Industry Statistical report.

### **PURPOSE AND SCOPE OF EXAMINATION**

An independent contract examiner, who was assisted by a state market conduct examiner, reviewed certain business practices of Permanent General Assurance Corporation (the Company). This procedure is in accordance with Colorado insurance law §10-1-204, C.R.S., which empowers the Commissioner to supplement the Division's resources to conduct market conduct examinations. The limited scope market conduct examination was performed in accordance with Colorado insurance laws, §§ 10-1-201, 10-1-203, 10-1-204, 10-1-205(8) and 10-3-1106, C.R.S., which empower the Commissioner to examine any entity engaged in the business of insurance. The findings in this report, including all work products developed in producing it, are the sole property of the Division.

The purpose of this limited scope examination was to determine the Company's compliance with Colorado insurance laws related to cancellation of private passenger automobile insurance policies, as well as the Company's overall handling of total loss claims. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Division. In reviewing material for this report the examiners relied primarily on records and material maintained and/or submitted by the Company. The examination covered a twelve (12) month period of the Company's operations, from January 1, 2008 to December 31, 2008.

File sampling was based on a review of cancellation files and total loss claim files that were randomly selected from file runs provided by the Company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample, the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases involving monetary values. However, in cases where monetary values were generated by computer or other systemic methodology, a zero dollar (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero dollar (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

When sampling was involved, a minimum error tolerance level of seven percent (7%) for claims, or ten percent (10%) for other samples, was established to determine reportable exceptions. However, if an issue appeared to be systemic, or when due to the sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of the examination (e.g., timeliness of claims payment), and if one or more of the samples yielded an exception rate higher than the minimum tolerance level, the results of any other samples with exception percentages less than the minimum tolerance were also included.

The report addresses private passenger automobile insurance and contains information regarding deviation from Colorado insurance law. The examination included review of the following:

1. Company Operations and Management
2. Cancelled Private Passenger Automobile Policies
3. Total Loss Private Passenger Automobile Claims

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance of such practices by the Division. Examination findings may result in administrative action by the Division.

**EXAMINERS' METHODOLOGY**

The examiner reviewed the Company's private passenger automobile underwriting and claim practices to determine compliance with the Colorado insurance laws as outlined in Exhibit 1.

**Exhibit 1**

<b>Law</b>	<b>Subject</b>
Section 10-1-128, C.R.S.	Fraudulent insurance acts – immunity for furnishing information relating to suspected fraud – qualification.
Section 10-3-1104, C.R.S.	Unfair methods of competition and unfair or deceptive acts or practices.
Section 10-4-112, C.R.S.	Property damage – time of payment.
Section 10-4-116, C.R.S.	Use of credit information.
Section 10-4-413, C.R.S.	Records required to be maintained.
Section 10-4-601, C.R.S.	Definitions.
Section 10-4-602, C.R.S.	Basis for cancellation.
Section 10-4-603, C.R.S.	Notice.
Section 10-4-605, C.R.S.	Proof of notice.
Section 10-4-610, C.R.S.	Property damage protection against uninsured motorists.
Section 10-4-613, C.R.S.	Glass repair and replacement.
Section 10-4-620, C.R.S.	Required Coverage.
Section 10-4-621, C.R.S.	Required coverages are minimum.
Section 10-4-639, C.R.S.	Claims practices for property damage.
Section 42-6-137, C.R.S.	Fees.
Insurance Regulation 1-1-7	Market Conduct Record Retention
Insurance Regulation 1-1-8	Penalties And Timelines Concerning Division Inquiries And Document Requests
Insurance Regulation 5-2-12	Concerning Automobile Insurance Consumer Protections
Insurance Regulation 5-2-15	Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursements

**Company Operations/Management**

The examiner reviewed Company management, quality controls, record retention, antifraud plan, forms certification, and timely cooperation with the examination process.

**Contract Forms and Endorsements**

The following private passenger automobile forms and endorsements certified with the Division on January 1, 2008. During the course of the underwriting phase, the format, language, and disclosures contained on these forms were also reviewed for compliance with Colorado insurance law.



<b>Form Title</b>	<b>Form Number</b>
Colorado Personal Auto Policy.	PA001-0108-CO
Automobile Insurance Application.	PA 039-0109-CO
Colorado Private Passenger Automobile Insurance Summary Disclosure Form.	PA111-0109-CO
Policy Declaration.	PA098-1108-CO
Operator's Policy Endorsement.	PA012-0606-CO
SR-22 (AAMVA Uniform Financial Responsibility Form).	IRB 3541B
Permanent General Privacy Policy.	Privacy Notice
Rental Reimbursement Coverage.	PA007-0606-CO
Business Use Endorsement.	PA051-0606-CO
Restrictive Endorsement.	PA099-0606-CO
Double Deductible Endorsement.	PA049-0606-CO
Custom Furnishings and Equipment Endorsement.	PA017-0606-CO
Towing and Labor Costs Coverage.	PA008-0606-CO
ID Card (front and back).	IDCB01A/IDCF01A
Automated Payment Plan.	INVB6000
Payment Voucher.	INVB6012
Cancellation – Insured Request.	CNC003
Cancellation – Incorrect/Missing Information on Application.	CNC007
Cancellation – Company Election.	CNC008
Cancellation – Returned Payment-Bank Information.	CNC011
Cancellation – Returned Down Payment – Bank Information.	CNC012
Cancellation – Insufficient Funds Check.	CNC013
Cancellation – Insufficient Funds Check – Down Payment.	CNC014
Cancellation – Material Misrepresentation.	CNC020
Notice of Cancellation.	CNC099
Informational.	CNTX34

**Private Passenger Automobile Cancellations**

For the period under examination, the examiner systematically selected the following sample of cancelled private passenger automobile policies to determine compliance with underwriting practices and manual rules:

**PRIVATE PASSENGER AUTOMOBILE POLICY CANCELLATIONS**

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
Cancellations	3486	108	3.1%

**Claims**

For the period under examination, the examiner systematically selected the following samples of total loss private passenger automobile claims to determine compliance with the Company's claims handling practices:

**PRIVATE PASSENGER AUTOMOBILE TOTAL LOSS CLAIMS**

<b>Review Lists</b>	<b>Population</b>	<b>Sample Size</b>	<b>Percentage to Population</b>
Comprehensive - Paid	25	25	100%
Collision - Paid	152	76	50%
Med-Pay - Paid	3	3	100%
Uninsured Motorist Bodily Injury/Uninsured Motorist Property Damage	2/3	2/3	100%
Claims Closed Without Payment	13	13	100%

**EXAMINATION REPORT SUMMARY**

The examination resulted in two (2) issues arising from the Company's apparent failure to comply with Colorado insurance laws that govern all private passenger automobile insurers operating in Colorado.

**Company Operations and Management:**

In the area of company operations and management, no compliance issues are addressed in this report:

**Underwriting:**

In the area of underwriting, no compliance issues are addressed in this report:

**Claims:**

In the area of claims, two (2) compliance issues are addressed in this report. The issues in this area were identified as follows:

**Issue J1: Failure, in some cases, to pay correct sales tax on total loss automobile claims.**

**Issue J2: Failure, in some cases, to pay correct title transfer fees on total loss automobile claims.**

A copy of the Company's response, if applicable, can be obtained by contacting the Company.

Results of previous market conduct examinations are available on the Division's website at [www.dora.state.co.us/insurance](http://www.dora.state.co.us/insurance) or by contacting the Division.

**PERMANENT GENERAL ASSURANCE CORPORATION**

**PERTINENT FACTUAL FINDINGS**

**CLAIMS**

**Issue J1: Failure, in some cases, to pay correct sales tax on total loss automobile claims.**

Section 10-4-639, C.R.S., Claims practices for property damage, states in part:

- (1) An insurer shall pay title fees, sales tax, and any other transfer or registration fee associated with the total loss of a motor vehicle.
- (3) *An insurer shall establish a fair and consistent method for determining total loss of a motor vehicle.* Such method shall include consideration of unique characteristics of the motor vehicle and a credible source of valuation. An insurer shall maintain a record of its methodology for determining total loss evaluation and provide such methodology to the commissioner upon request. The commissioner may promulgate rules for the administration and enforcement of this subsection (3). An insurer may not use different credible sources of valuation only to determine the lowest amount payable for the total loss of the motor vehicle. [Emphasis added.]

Colorado Insurance Regulation 5-2-15, Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursements, promulgated under the authority of Sections 10-1-109, 10-3-1110(2), 10-4-601.5 and 10-4-639 (3) & (4), C.R.S., states in part:

Section 5 Rules

A. Total Loss Claims

- (1) *The insurer shall develop and maintain written procedures that will be consistently used when determining the value of a vehicle declared a total loss.* [Emphasis added.]

The following chart illustrates the significance of error versus the population and samples examined.

**Total Loss Automobile Claims – Incorrect Sales Tax**

Review Lists	Population	Sample Selection	Number of Exceptions	Percentage of Sample
Claims Paid - Comprehensive	25	25	5	20%
Claims Paid - Collision	152	76	14	18%
Claims Paid – Med-Pay	3	3	1	33%
Total	180	104	20	19%

The examiner reviewed a total of 104 claims representing samples of three different types of total loss claims handled by the Company during the examination period. It appears that the Company is not in compliance with Colorado insurance law in that a total of twenty (20) exceptions were identified wherein the Company failed to pay the correct sales tax on the total loss claims as required by Colorado insurance law. It appears that these errors resulted from the use of incorrect sales tax tables, and involved fourteen (14) underpayments and six (6) overpayments.

**Recommendation #1:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of § 10-4-639, C.R.S., and Colorado Insurance Regulation 5-2-15. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division that it has reviewed its claim handling practices and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

**Issue J2: Failure, in some cases, to pay correct title transfer fees on total loss automobile claims.**

Section 10-4-639, C.R.S., Claims practices for property damage, states in part:

- (1) An insurer shall pay title fees, sales tax, and any other transfer or registration fee associated with the total loss of a motor vehicle.
- (3) *An insurer shall establish a fair and consistent method for determining total loss of a motor vehicle.* Such method shall include consideration of unique characteristics of the motor vehicle and a credible source of valuation. An insurer shall maintain a record of its methodology for determining total loss evaluation and provide such methodology to the commissioner upon request. The commissioner may promulgate rules for the administration and enforcement of this subsection (3). An insurer may not use different credible sources of valuation only to determine the lowest amount payable for the total loss of the motor vehicle. [Emphasis added.]

Colorado Insurance Regulation 5-2-15, Concerning Consumer Protection for Vehicle Valuation and Rental Reimbursements, promulgated under the authority of Sections 10-1-109, 10-3-1110(2), 10-4-601.5 and 10-4-639 (3) & (4), C.R.S., states in part:

Section 5 Rules

B. Total Loss Claims

- (1) The insurer shall develop and maintain written procedures that will be consistently used when determining the value of a vehicle declared a total loss.
- (2) Claims files shall include the credible source used for valuation by vendor name and the methodology for determining the amount of the loss. Claims files shall document that the valuation considered unique characteristics of a total loss vehicle, such as classic status, unique finishes, mileage and/or, special accessories.

Section 42-6-137, C.R.S. Certificates of Title, Fees, states in part:

- (1)(a) Upon filing with the authorized agent an application for a certificate of title, the applicant shall pay to the agent a fee of *seven dollars and twenty cents [emphasis added]*, which shall be in addition to the fees for the registration of such motor vehicle.

The following chart illustrates the significance of error versus the population and sampled examined.



**Total Loss Automobile Claims – Incorrect Title Transfer Fees**

<b>Review Lists</b>	<b>Population</b>	<b>Sample Selection</b>	<b>Number of Exceptions</b>	<b>Percentage to Sample</b>
Claims Paid - Comprehensive	25	25	18	72%
Claims Paid - Collision	152	76	59	78%
Claims Paid – Med-Pay	3	3	3	100%
Total	180	104	80	77%

The examiner reviewed a total of 104 claims representing samples of three different types of total loss claims handled by the Company during the examination period. It appears that the Company is not in compliance with Colorado insurance law in that a total of eighty (80) exceptions were identified wherein the Company failed to pay the correct title transfer fee on the total loss automobile claims as required by Colorado insurance law. In the instances cited, it was noted that the Company was using \$9.00, \$9.20 and \$9.50 fee amounts in its transactions, which resulted in overpayments for all eighty (80) claims reviewed.

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**Recommendation # 2:**

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of §§ 10-4-639 and 42-6-137, C.R.S., and Colorado Insurance Regulation 5-2-15. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division that it has reviewed its claims handling practices and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law.

**Summary of Recommendations****PERMANENT GENERAL ASSURANCE CORPORATION**

ISSUE	REC #	PAGE
Claims		
Issue J1: Failure, in some cases, to pay correct sales tax on total loss automobile claims.	1	15
Issue J2: Failure, in some cases, to pay correct title transfer fees on total loss automobile claims.	2	17

State Market Conduct Examiner

Jeffory A. Olson, CIE, FLMI, AIRC, ALHC

And

Independent Market Conduct Examiner

MARI A. SANCHEZ, AIE, FLMI, AIRC, CCP, MCM

Participated in this examination and in the preparation of this report